

The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STRIKE 3 HOLDINGS, LLC, a
Delaware corporation,

Plaintiff,

v.

JOHN DOE, subscriber assigned IP
address 73.225.38.130,

Defendant.

No. 2:17-cv-01731-TSZ

**PLAINTIFF/COUNTER-
DEFENDANT'S MOTION TO SEAL**

Note on Motion Calendar:
July 19, 2019

I. INTRODUCTION

Plaintiff/Counter-Defendant, Strike 3 Holdings, LLC ("Strike 3" or "Plaintiff"), respectfully requests that the Court maintain under seal Strike 3' Reply in Support of Motion for Partial Summary Judgment (the "Reply"), Exhibits A and B to the Declaration of Lincoln Bandlow in Support of the Reply ("Confidential Exhibits to the Bandlow Declaration").

The Reply and the Confidential Exhibits to the Bandlow Declaration contain confidential business information, the disclosure of which would harm Strike 3's competitive standing. The undersigned counsel for Strike 3, Lincoln Bandlow certifies that

1 he conferred with counsel for Doe on June 28, 2019, as required by Local Rule 5(g), and
 2 Doe opposes sealing the Reply and the Confidential Exhibits to the Bandlow Declaration.

3 II. ARGUMENT

4 Protecting the sensitive and confidential business information in the Reply and
 5 Confidential Exhibits to the Bandlow Declaration provides a compelling reason for keeping
 6 these documents under seal. Although court records are typically in the public domain,
 7 courts will permit sealing if there are “compelling reasons” to do so. *Kamakana v. City &*
 8 *Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). Preventing disclosure of
 9 confidential business information is such a compelling reason that warrants keeping
 10 documents under seal. *See Center for Auto Safety v. Chrysler Group, LLC*, 809 F.3d 1092,
 11 1097 (2d Cir. 1995).

12 As set forth in greater detail in the declaration of Jessica Fernandez in Support of
 13 Strike 3’s Motion to Seal, “compelling reasons” for sealing are present here. The Reply and
 14 Confidential Exhibits to the Bandlow Declaration contain confidential information relating
 15 to Strike 3’s revenue from subscriptions, licensing fees, and DVD sales and the gross and
 16 net recovery from Strike 3’s legal matters. Fernandez Decl. ¶ 8. Strike 3 maintains this
 17 information in confidence. *Id.* Disclosure of this information could harm Strike 3’s
 18 competitive standing. *Id.* In short, Strike 3 derives economic benefit from keeping this
 19 type of information confidential. Strike 3 will file public versions of the Reply and the
 20 Confidential Exhibits to the Bandlow Declaration with the confidential information
 21 redacted, which will allow the public to see the vast majority of argument and evidence
 22 submitted in connection with Strike 3’s Motion for Partial Summary Judgment.

23 It is appropriate for the Court to seal filings that include “business information that
 24 might harm a litigant’s competitive standing. *Nixon v. Warner Commc’ns*, 435 U.S. 589,
 25 598 (1978). Indeed, “[c]ourts commonly issue protective orders limiting access to sensitive
 26

1 [commercial] information to counsel and their experts.” *Seiter v. Yokohama Tire Corp.*,
2 No. C08-5578 FDB, 2009 WL 2461000, at *2 (W.D. Wash., Aug. 10, 2019).

3 **III. CONCLUSION**

4 For the foregoing reasons, Strike 3 requests that the Court grant Strike 3’s Motion to
5 Seal and maintain the seal on Strike 3’s Reply and Confidential Exhibits to the Bandlow
6 Declaration.

CONFERRAL CERTIFICATE PURSUANT TO LCR 5(g)(3)(A)

Pursuant to LCR 5(g)(3)(A), on June 28, 2019, I conferred with counsel for defendant John Doe, Adrienne McEntee, via e-mail, regarding Strike 3's request that the Reply and Confidential Exhibits to the Bandlow Declaration remain under seal. Defendant John Doe opposes Strike 3's request that the Reply and Confidential Exhibits to the Bandlow Declaration remain under seal.

By: /s/ Lincoln Bandlow
Lincoln D. Bandlow

1 DATED this 28th day of June, 2019

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CERTIFICATE OF SERVICE

I, Annabel Barnes, hereby certify that on June 28, 2019, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of filing to the following parties:

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DATED this 28th day of June 2019 at Seattle, Washington.

/s/ Annabel Barnes

Annabel Barnes, Legal Assistant